

Sep 90 - Sec 600

unpublished by J. P. S. 1990

#### 600. Temporary Disability Insurance Coordinated with Unemployment Insurance

Four State programs--in California, New Jersey, Puerto Rico, and Rhode Island--administered by the State employment security agency in coordination with unemployment insurance provide benefits for unemployment due to disability. The Hawaii law is administered separately from unemployment insurance by the Temporary Disability Insurance Division of the Department of Labor and Industrial Relations, and the New York law is administered by the workmen's compensation board. Since only six States have such laws, the discussion does not lend itself to presentation in tables of the type used in chapters 100 through 500. A seventh program, established by the Congress for the railroad industry, is not discussed here since it is solely a Federal program.

There is no basis in Federal law for a Federal-State system of disability insurance comparable to the Federal-State system of unemployment insurance. The Social Security Act was amended in 1946, however, to provide that the amount of employee contributions to the unemployment fund of a State may be withdrawn for the payment of disability benefits. Only nine States could benefit by this provision (sec. 205.04).

Rhode Island passed the first such law in 1942; California followed in 1946; New Jersey in 1948; New York in 1949; Puerto Rico in 1968; and Hawaii in 1969. In California, the benefits are called unemployment compensation disability benefits; in Hawaii, New Jersey and Rhode Island, temporary disability benefits; and in New York and Puerto Rico, disability benefits. In all cases the benefits are cash payments to replace, for a limited time, a part of the wages lost by insured workers unemployed because of sickness or injury.

California, Puerto Rico, and Rhode Island provide one program of benefits without regard to whether workers are employed, unemployed, or in noncovered employment when their disability begins. Hawaii, New Jersey and New York provide two separate systems of disability benefits, one for individuals who suffer disability while employed or shortly thereafter, and another for those who become disabled while unemployed. The New Jersey program for disability during unemployment also covers workers with base period wages in covered employment whose disabilities begin while they are in noncovered employment; New York does not pay benefits to such workers.

#### 605 Definition of Disability

The scope of the program depends in part on the types of disability which are compensable. The intent of the laws is to compensate for non-work-connected sickness or injury. This purpose is achieved through the definition of disability or through other eligibility conditions. (See the discussion of relationship to workers' compensation payments, sec. 625.02.)

## DISABILITY

In general, the laws define disability in terms of the inability of an individual to perform the regular or customary work because of the individual's physical or mental condition. California also specifically includes individuals suspected of being infected with a communicable disease, acute alcoholics, and drug addicts undergoing treatment. The Puerto Rico law and two of the special systems for the disabled unemployed, in New Jersey and New York, contain more strict requirements with respect to disability during unemployment. The New Jersey law provides that the claimant must be unable to perform any work for remuneration, and the New York law that the claimant must be unable to perform any work for which the worker is reasonably qualified by training and experience. The Puerto Rico law provides that disability during unemployment means the inability of a worker to fulfill the duties of any employment for which the individual is reasonably qualified by training and experience.

605.01 TYPES OF DISABILITY EXCLUDED.--In Puerto Rico benefits are not payable for disability caused by or in relation to abortion in cases performed for medical reasons or in cases where complications have arisen due to abortion.

Hawaii, New Jersey, New York, and Puerto Rico have provisions excluding payments for disability caused by willful, intentional, self-inflicted injuries, or acquired in the perpetration of an illegal act. New York also excludes disabilities resulting from an act of war after June 30, 1950, or caused by an automobile. California and Puerto Rico prohibit payments for any period of confinement in an institution as a drug addict, dipsomaniac, or sexual psychopath. California also prohibits payment whenever legal custody is the cause of unemployment.

605.02 UNINTERRUPTED PERIOD OF DISABILITY.--All of the States except Rhode Island have defined consecutive periods of disability resulting from the same or related cause or condition. California and Hawaii provide that two consecutive periods of disability as a result of the same or related cause, and separated by a period of not more than 14 days, shall be considered as one disability benefit period. New Jersey provides that such two periods shall be considered as one continuous period of disability if the individual has earned wages during such 14 days with the last employer. New York provides that two such consecutive periods of disability shall be considered as one if separated by less than 3 months; in Puerto Rico if by less than 90 days.

### 610 Coverage

In no State is coverage under the disability insurance program identical with that of the unemployment insurance program. In New Jersey, California and Rhode Island individuals who depend on prayer or spiritual means for healing may elect not to be covered by the contribution and benefit provisions of the disability laws. In addition to this exemption, the several States have other differences in coverage from the unemployment insurance law. In California self-employed individuals who are not otherwise subject to the law may, under specified conditions, elect to become liable. Also, local public entities and agencies may elect to be covered by the program. In Hawaii coverage is the same as under the unemployment insurance law, except that small agricultural employers are covered for disability purposes but not for unemployment insurance. In New York coverage is not identical with that of either the unemployment insurance program or the workers' compensation program.

## DISABILITY

Employers of one or more workers in 30 days are covered, excluding employers of domestic service whose employee works less than 40 hours per week. Maritime service and service for State governmental units now covered by the unemployment insurance law are excluded, but public authorities and municipal corporations may elect disability coverage for their employees. Also excludes an executive officer of a corporation who at all times during the period involved owns all of the issued and outstanding stock of the corporation and holds an office in the corporation or an executive officer of an incorporated religious, charitable or educational institution. Individual workers who are entitled to receive primary old-age and survivors insurance benefits may elect not to be covered by the program. In Rhode Island, State and local government employees are covered by the unemployment insurance law but not by the disability law, but any governmental entity except the State and its instrumentalities may elect coverage. In New Jersey any governmental entity or instrumentality may elect coverage if covered under the unemployment insurance law.

### 615 Financing

In California, New Jersey, and Rhode Island, the programs--both benefits and administration--originally were financed wholly or mainly by employee contributions which formerly went to unemployment insurance. In addition to providing that current employee contributions are deposited in the disability fund, the legislatures of these States provided for the transfer to the disability fund of some or all of the employee contributions collected under the unemployment insurance law. Hawaii, New York and Puerto Rico did not have employee contributions for unemployment insurance from which to draw.

615.01 TYPE OF FUND.--In Rhode Island all contributions are paid into a pooled State fund and all benefits are paid from that fund. In California, New Jersey, and Puerto Rico, coverage under a private plan (usually with an insurance company) may be substituted for coverage under the State fund if the private plan is approved by the agency as meeting certain requirements of the law. Contributions are then paid into the private plan and benefits are paid by it, generally one for disabilities beginning during employment or shortly thereafter. In Puerto Rico benefits under a private plan are paid to individuals for periods of disability that begin during unemployment or while employed in noninsured work.

The Hawaii and New York laws are similar to an employer-liability law in that they require employers to take positive action to provide disability insurance for their workers--with employees contributing to the cost. In New York the employer may provide the protection through self-insurance, or through buying an insurance contract from either a private insurance company or the State insurance fund, which is a State-operated competitive carrier originally organized for worker's compensation. Also, there is a special fund for disability benefits, operated by the State, for benefits to the disabled unemployed. In Hawaii an employer may provide protection through private plans with an authorized insurance carrier or through approved self-financing. In addition, there is a special State fund for unemployed workers and employees of bankrupt or non-complying employers.

## DISABILITY

615.02 AMOUNT OF CONTRIBUTIONS.--In California all employees covered by the State fund pay no more than 1.2 percent or less than 0.1 percent (may not decrease from the previous years rate by more than 0.2 percent). In addition, a self-employed person in California, whose application for coverage has been approved, is required to make contributions at the rate of 1.25 percent of wages (deemed to be \$5,475 a quarter). In Rhode Island all employees (except those who have elected not to be covered on religious grounds) pay 1.0 percent up to the taxable wage base. In New Jersey employees covered by the State fund pay 4/9 of contributions if the rate is 1.125 percent and all of the contribution if the rate is 1/2 of 1 percent for disability insurance on wages up to \$13,900. Employers under the State fund pay a basic rate of 0.5 percent subject to experience rating; an employer's rate may decrease to 0.1 percent or increase to 1.1 percent on the basis of his reserve ratio (sec. 220.01) and the status of the fund as a whole. Employees covered by private plans in California, New Jersey, and Puerto Rico cannot be required to pay higher contributions than they would pay to the State fund, nor in Puerto Rico can they be required to contribute more than the employer:

For benefits not exceeding statutory benefits, New York employees may be required to pay 0.5 percent on the first \$120 of weekly wages (i.e., not more than 60 cents a week); any additional costs are paid by employers. Employee contributions in Hawaii are limited to half the cost of providing benefits but not more than 0.5 percent of weekly earnings up to the annually computed taxable wage base. The balance is paid by the employer. In Puerto Rico both employers and employees pay 0.5 percent of the worker's wages up to \$9,000.

615.03 FINANCING BENEFITS FOR DISABILITY DURING UNEMPLOYMENT.--In Rhode Island all benefits are paid from the State fund with no distinction between disabilities beginning during employment and those beginning during unemployment. In California, where contracting out is permitted, there is no distinction between the amount of benefits payable to the employed and the unemployed, but the latter are charged to a special account in the State fund whether the workers were covered by the State plan or a private plan when employed. Each voluntary plan pays 0.12 percent into the State fund to finance benefits to persons who are either unemployed or in noncovered work at the time their period of disability commences. In Puerto Rico private plans must finance some or all of the disability benefits payable to workers for periods of disability that begin during unemployment or employment in uninsured work.

The separate New Jersey program for disability during unemployment is financed principally by interest on employee contributions withdrawn from the unemployment trust fund. Additional costs of such benefits may be assessed against all employers, up to 0.1 percent of taxable wages.

Hawaii levied a temporary contribution rate of 0.2 percent on the taxable wages of subject employers from July to December 1969 in order to establish the Special Disability Fund from which benefits are paid during unemployment. Additional amounts will be assessed against insurance carriers and self-insured employers as needed.

## DISABILITY

In New York a temporary contribution from January 1 to July 1, 1950, of 0.1 percent on the first \$60 weekly wages by both employers and employees (i.e., not more than 6 cents a week each) established the fund from which benefits first were paid for disability during unemployment. This fund has been maintained at \$12 million (by statute) by interest earned by the fund, by certain fines and penalties, and, when necessary, by an assessment against all carriers including the State fund.

615.04 ADMINISTRATIVE COSTS.--Administrative costs under five programs are paid from the contributions; in Hawaii such costs are paid from general revenue. Under the terms of the Social Security Act, employee contributions withdrawn from the unemployment trust fund are not available for payment of costs of administration. The Rhode Island law provides for crediting to the administration account 6 percent of the amounts currently collected, and New Jersey 0.01 percent of taxable wages. In California and Puerto Rico necessary administrative expenses, as determined by the State director of finance (California), or the Secretary of Labor (Puerto Rico), are withdrawn from the disability fund and each private plan is assessed a share of the total amount expended for added administrative work arising out of the voluntary plans.

New Jersey employers covered by the State fund pay an extra assessment for the costs of maintaining separate accounts for experience-rating purposes. In New Jersey employers with private plans are assessed the additional administrative costs attributable to private plans in proportion to covered wages, with a maximum annual assessment of 0.5 percent of wages. Included in this assessment is a prorated share of the administrative costs of the system for the unemployed.

In New York the State insurance fund as a carrier is limited to 25 percent of contributions for administrative expenses. The administrative costs to the State of the programs for both employed and unemployed workers, not including the expenses of the State fund as a carrier, are assessed against all carriers, including the State fund, in proportion to covered wages with no limit.

### 620 Benefit Provisions.

Benefits have been payable in Rhode Island since April 1943; in California since December 1946; in New Jersey since January 1949; in New York since July 1950; in Puerto Rico since July 1969; and in Hawaii since January 1970. In New Jersey and Rhode Island the benefit formula is similar to that for unemployment insurance (Table 600). In Puerto Rico the schedule is the same as that for unemployment insurance for weekly benefit amounts up to \$59. For amounts above \$59 Puerto Rico uses an annual-wage formula instead of a high-quarter formula. (For a discussion of the different types of benefit formulas see sec. 320.01.) In California, Hawaii and New York the formula is different. In all States eligibility for benefits depends on proof of disability and continuance of such disability (sec. 630).

620.01 BENEFIT YEAR AND BASE PERIOD.--In Rhode Island a claim for disability benefits establishes a disability benefit year. As in unemployment insurance, the base period is the 52 calendar weeks ending with the second week immediately preceding the benefit year, but benefit years for unemployment and for disability run separately.

## DISABILITY

In Hawaii there is no base period but benefits are based on earnings during the four completed calendar quarters immediately preceding the first day of disability. The benefit year is the 1-year period beginning with the first week of disability for which a valid claim is filed.

In California and Puerto Rico there is no benefit year; benefit rights are determined with respect to each continuous period of disability established by a valid claim. However, Puerto Rico limits benefit rights in terms of any period of 52 consecutive calendar weeks. The base period in both States is the same as in unemployment insurance. If the claimant has an unexpired unemployment benefit year, the unemployment insurance base period is used. In addition, California permits the spouse of a mentally unable claimant who would be eligible for benefits to file a claim for the claimant. In the New York law and under the New Jersey provisions for disability during employment, there is no benefit year or base period as used in unemployment insurance. Benefit rights are limited in terms of any 52 consecutive weeks and of any 12-month period, respectively, and different periods are used to determine the weekly benefit amount and wage qualification (sec. 620.02).

New Jersey claimants who have been out of covered employment for 2 weeks or more and are eligible for unemployment insurance except for their disability, ordinarily have an unexpired benefit year established by a claimant for unemployment benefits, which is used for disability. If they do not have an established benefit year--for example, if they were in noncovered employment when the disability began--a claim for disability benefits starts a benefit year for unemployment insurance as well as for disability during unemployment. The base period is the 52 calendar weeks preceding the disability, similar to the unemployment insurance formula.

620.02 QUALIFYING WAGES OR EMPLOYMENT.--Rhode Island requires earnings of 20 times the minimum hourly wage in each of 20 weeks or \$4,800 in total wages in the base period. New Jersey, 20 weeks in which wages from a covered employer were 20 percent of statewide average weekly wage or more. Workers in California may qualify for benefits with \$300 in earnings. In Puerto Rico the wage qualifications are the same as for unemployment insurance up to \$59. Higher disability benefits are based on a percentage of the claimant's annual wage. There is no high-quarter requirement for claimants with a weekly benefit of \$60 or more. In New York an employed individual is eligible for disability benefits after 4 consecutive weeks of employment with a subject employer and continues to be covered for 4 weeks after termination of such employment. Any unemployed individual who has not had 5 days' exempt work since his last covered employment is eligible for disability benefits (1) if he is drawing unemployment benefits at the beginning of his disability and becomes ineligible for such benefits solely because of his disability; or (2) if he has insufficient base-period wages to qualify for unemployment benefits (Table 301) but has earned at least \$13 a week in covered employment for 20 weeks within 30 weeks prior to his last day in covered employment. In Hawaii the requirement is 14 weeks of employment with at least 20 hours in each week and wages of \$400 during the four completed calendar quarters immediately preceding the first day of disability.

## DISABILITY

620.03 WEEKLY BENEFIT AMOUNT AND DURATION OF BENEFITS.--In New Jersey, which computes the individual's weekly benefit amount as two-thirds of his average weekly wage, weekly benefits range from \$20 to an amount computed annually based on 53 percent of the statewide average weekly wage in the preceding calendar year. Duration for employed workers is 8+ to 26 weeks in any 12 consecutive months, depending on the number of base weeks of employment. Duration for unemployed workers is computed in the same manner, using a different period, and is entirely separate from disability benefits during employment. The combined duration of benefits under disability during unemployment and under unemployment insurance is limited to 150 percent of duration for either program separately.

In California weekly benefits are based on a schedule of high-quarter wages which differs from that used for unemployment so that almost every level of wages, weekly benefits will be higher for disability. The duration formula for any one period of disability also differs from that used for unemployment paying the lesser of 52 weeks or the total of the claimant's base-period wages.

New York bases weekly benefits on one-half of the claimant's average wages in the last 8 weeks of covered employment prior to the disability. If the average weekly wage is less than \$20, the weekly benefit amount is the average weekly wage. The maximum is \$170 and minimum is \$20. Duration is limited to 26 weeks in any 52-consecutive-week period.

Rhode Island computes weekly benefits at 60 percent of the claimant's average weekly wages plus the greater of \$10 or 6 percent of the individual's benefit rate for each dependent child under 18, or older if unable to work because of mental or physical incapacity, up to 5 dependents. The maximum weekly benefit amount is computed annually at 75 percent of the State's average weekly wage in covered employment. Duration, depending on the number of weeks of employment, ranges from 12 to 30 weeks.

Puerto Rico computes the weekly benefit amount, up to \$59, according to the same schedule as that used for unemployment insurance. Weekly benefit amounts from \$59 to the maximum of \$104 are provided under a schedule in the law. Duration is limited to 26 weeks in any 52 consecutive calendar weeks.

In Hawaii the weekly benefit amount of a claimant whose average weekly wage is less than \$26 is his average weekly wage up to a maximum of \$14. For a claimant with an average weekly wage of \$26 or more, the weekly benefit amount is 55 percent of his average weekly wage up to the maximum for unemployment benefits; i.e., 66-2/3 percent of the State average weekly wage. Duration is a uniform 26 weeks for all claimants who were in current employment at the time of disability. An unemployed claimant may receive benefits for no more than 26 weeks from the time he first received unemployment benefits.



## DISABILITY

620.04 WAITING PERIOD.--Under the New Jersey program of benefits to the unemployed disabled, 1 week of unemployment or of disability in a benefit year satisfies the waiting-period requirement for both disability and unemployment insurance purposes. The waiting week is compensable after benefits have been paid for 3 consecutive weeks. In Rhode Island only 1 waiting week is required in the benefit year, however, the waiting week may become compensable under certain conditions. In California, Hawaii, and New York, a waiting week of 7 consecutive days of disability is required for each continuous period of disability. In Puerto Rico a 7-day waiting period is provided; however, if a claimant is confined to the hospital within the first 7 days of disability, benefits will be payable from the first day of such confinement. No waiting period is required for agricultural workers who become disabled during a continuous period of unemployment. A continuous period of disability is defined in the State laws as successive periods of disability as a result of the same or a related cause separated by not more than 14 days in California, Hawaii and New Jersey, and by less than 3 months in New York and Puerto Rico. In California no waiting period is required to establish eligibility for hospital or nursing home payments or for disability benefits during the disability that caused the hospitalization or confinement in a nursing home. In addition, the waiting period is waived if the individual is unemployed and disabled for more than 21 days during the disability benefit period or if the individual receives treatment in a surgical clinic that requires a stay of less than 24 hours. In Rhode Island no waiting period is required if an individual is injured while receiving unemployment benefits.

In the New York and Puerto Rico programs for compensating individuals who would be eligible for unemployment insurance if it were not for their disability, only the waiting week of unemployment that established eligibility for unemployment benefits is required.

620.05 PART WEEKS OF DISABILITY.--In the disability programs, benefits are paid for part weeks on a different basis from partial unemployment, except in the New Jersey program for compensating disability during unemployment. Rhode Island pays at the rate of one-fifth of the weekly benefit for not more than 4 days of disability to individuals who have served a waiting period or who are in receipt of benefits if the disability ends prior to the end of a benefit week. California, New Jersey, and Puerto Rico compensate at one-seventh of the weekly benefit for consecutive days of disability following a waiting week or compensable week. Hawaii and New York compute a daily rate on the basis of the normal number of workdays per week.

620.06 BENEFITS UNDER PRIVATE PLANS.--The California law requires that private plans provide benefit rights greater than those under the State plan in all respects. In Hawaii, New Jersey, and Puerto Rico, private plan benefits must be at least as favorable as those under the State plans. Hawaii permits deviation from statutory benefits if the benefits provided under the private plan are actuarially equal or better. In New York adherence to a statutory formula is not required whether workers are insured with the State fund or with a private carrier. Benefits must be actuarially equivalent to the statutory formula. Cash benefits in the formula outlined above may be reduced if the plan of insurance includes a shorter waiting period or other benefits, such as hospitalization benefits; weekly benefits may be less than 50 percent of wages if maximum duration is more than 26 weeks. Employees may be required to pay more than 0.5 percent if additional benefits warrant the extra cost.

## DISABILITY

620.07 SURVIVORS' BENEFITS.--In California and New Jersey, if a claim for disability benefits was not filed by an otherwise eligible individual prior to his death, a claim may be filed by a person who legally would be entitled to such benefits. Puerto Rico provides a lump sum death benefit of \$3,000 to dependents of workers. Death benefits are payable upon the sudden death of an insured worker from injuries or an accident compensable under the law, or death resulting within 52 weeks after a disability began because of sickness or injury. However, benefits may not be paid for death or injury caused by an automobile accident that is covered under the Automobile Accident Social Protection Act.

### 625 Disqualifications and Nonmonetary Eligibility Provisions

625.01 ELIGIBILITY REQUIREMENTS IN ADDITION TO WAGES.--Under all the programs claimants must be unemployed because of disability, and they may be declared ineligible if they withdrew from the labor force for reasons other than disability. In New Jersey a covered governmental employee must exhaust all sick leave before becoming eligible for disability benefits. A disability claimant in Hawaii must be in current employment; i.e., an individual who was performing regular service not longer than 2 weeks prior to the onset of the disability and who would have continued in employment but for the disability. In addition, a disability claimant is ineligible for benefits for any period in which he would be disqualified for unemployment insurance because of a labor dispute or for any period in which he performed work for remuneration, was unemployed because of an intentional self-inflicted injury, or attempted to obtain benefits through fraud or failure to file a claim for disability benefits within 90 days after the commencement of the period of disability or as soon as is reasonably possible. New Jersey and Hawaii claimants for disability during unemployment must meet all the requirements for unemployment insurance except ability to work; they are not eligible for disability benefits for any week of disability more than 26 weeks after the last week of covered employment. New Jersey claimants for benefits for disability beginning during employment also are ineligible if they would be disqualified for unemployment insurance benefits because of a labor dispute, unless the disability began before the disqualification. A California claimant who has been disqualified from unemployment insurance is presumed to be disqualified from disability benefits for such weeks unless he establishes that he is suffering a bona fide illness or injury and the agency finds that there is good cause for paying such benefits. However, a claimant who is otherwise eligible for disability benefits is not disqualified from receiving those benefits because of a labor dispute disqualification for unemployment insurance.

Although the benefit formula in New York is not related to the benefit formula for unemployment insurance, individuals who are or would be disqualified from unemployment insurance benefits are disqualified for disability insurance benefits.

625.02 RELATIONSHIP TO WORKER'S COMPENSATION.--None of the laws is intended to replace worker's compensation, although the relationship between the two programs differs.

## DISABILITY

In California a claimant who is receiving or is entitled to receive worker's compensation for the same temporary disability is not eligible for disability benefits unless the disability benefit is higher than the weekly worker's compensation payment; in that case, he is entitled to the difference from the disability fund. If his eligibility for worker's compensation has not been determined, he may receive disability benefits subject to reimbursement from any worker's compensation benefits subsequently awarded for that week. Full benefits are payable irrespective of cash payments under a worker's compensation law for permanent disability.

Hawaii does not permit duplication of benefits unless a claimant is receiving worker's compensation payments for permanent partial or total disability previously incurred. However, if a claimant's right to benefits under worker's compensation is seriously disputed, the individual may receive disability benefits until his disability becomes compensable under worker's compensation. If a claimant subsequently receives worker's compensation payments, these payments are proportionately allocated among employer or insurers according to the amount of disability benefits paid by them.

In New Jersey both the definition of disability and the eligibility conditions exclude disability benefits for any week for which worker's compensation, other than for permanent total or partial disability, is payable. However, if a claim for worker's compensation is contested, temporary disability benefits may be paid to an otherwise eligible claimant until his disability becomes compensable under the worker's compensation law.

The New York law defines disability to exclude illnesses or accidents arising out of or in the course of employment, whether or not worker's compensation is payable. It further provides that no benefits are payable for any period with respect to which worker's compensation, other than permanent partial benefits for a prior disability, is paid or payable. In Puerto Rico and Rhode Island a claimant may receive disability benefits if there is doubt as to his eligibility for worker's compensation. If he later receives such benefits, he is liable for repayment of the disability benefits. Puerto Rico limits to \$40 the maximum weekly benefit amount payable while a claim for worker's compensation is under dispute, although, if the claimant is later found eligible for disability benefits, his claim will be recomputed. In addition, in Puerto Rico no disqualification is applicable if the worker's compensation payment was made on account of partial permanent disability occurring prior to the disability for which disability benefits are claimed.

625.03 EFFECT OF OTHER TYPES OF INCOME ON ELIGIBILITY.--Other types of income that affect eligibility include wages, employer pensions, old-age and survivors insurance benefits.

In Rhode Island a claimant who is not working because of illness is eligible for benefits even though he is receiving regular wages or a part thereof. New Jersey and Puerto Rico take such wages into account and limit the total of wages and benefits to the claimant's weekly wages immediately prior to the disability. In Puerto Rico a pregnant worker may not be paid during any period in which she is receiving benefits under the Act to Protect Working Mothers, unless such benefits are less than her weekly disability benefit amount, in which case she may receive the difference. California provides that the daily combination of such wages and

## DISABILITY

disability benefits shall not exceed one-seventh of the claimant's weekly wage, excluding overtime pay, immediately prior to the disability. New York deducts from the benefits any payment from the employer or from a fund to which the employer contributes, except supplementary benefits paid pursuant to a collective bargaining agreement. New Jersey applies the unemployment insurance formula for partial benefits (sec. 325) to claimants receiving disability benefits during unemployment. Also, a claimant's disability benefit is reduced by the amount of any pension plan to which his most recent employer has contributed. In Puerto Rico any claimant receiving any pension payments or retirement income is denied benefits unless subsequent to receipt of the pension or retirement payment he has performed services in insured work for at least 15 weeks immediately preceding the disability.

### 630 Administration

The systems of disability insurance coordinated with unemployment insurance use the same wage record procedures for both programs. Claims procedures, however, necessarily differ for unemployment insurance claimants and for claimants who are not able to work. Disability claims are filed by mail. The first claim or notice of disability is normally filed after the end of the first week of disability. All claims are sent to the central office in New Jersey and Rhode Island. In California the first claim in any period of disability as well as continued claims are sent directly to one of the field offices. In New York employed workers file claims with their employers, and unemployed workers with the worker's compensation board.

Under all the laws, medical certification of disability in connection with claims is required from the claimant's attending doctor, with minor differences in the types of medical personnel permitted to certify. California, Hawaii and New York accept certification from an authorized religious practitioner with respect to the illness of a member of his group. All the State laws give the agency authority to require that claimants, without cost to themselves, submit to examination by a designated licensed physician.

Claimants who are dissatisfied with determinations on their disability claims have the right to appeal under all State laws. In the States with disability and unemployment insurance coordinated, the appeal is to the unemployment insurance appeal bodies (sec. 515-515.02); in New York, to the worker's compensation board; and in Hawaii to the referee for temporary disability benefits. In the States with private plans, a private-plan claimant may also appeal to the State unemployment appeal tribunal.

(Next page is 6-13)

# DISABILITY

Table 600.--Significant Provisions of Temporary Disability Insurance Laws

Provisions	California	Hawaii		New Jersey	
		Employed workers	Unemployed workers	Employed workers	Unemployed workers
(1)	(2)	(3)	(4)	(5)	(6)
Benefit formula.	Differs from UI.	Differs from UI.	Same as UI.	Differs from UI.	Same as UI.
Benefit year.	No BY. Rights determined with respect to continuous disability period established by valid claim.	1-yr. period beginning with 1st week of disability for which valid claim is filed.	UI Benefit year.	No BY but statutory min. and max. benefits in any 12-month period.	Individual, beginning with valid claim. Valid claim for either disability during unemployment or for UI establishes BY for both.
Base period.	Without unexpired UI ben. yr.: first 4 of last 5 CQs preceding disability beginning 2d or 3d month of qtr; or first 4 of last 6 qtrs. preceding disability beginning in 1st month of qtr. With unexpired UI ben. yr.: UI base period.	None. See below for period used for qualifying emplmt. and wba.	UI Base period.	52 calendar weeks immediately preceding calendar week in which disability period began.	52 calendar weeks ending with 2d week immediately preceding preceding individual's BY.
Qualifying wages or employment.	Flat \$300.	14 weeks emplmt.--at least 20 hours in each week and wages of \$400 during the 4 completed CQs immediately preceding first day of disability		20 base weeks of emplmt. (week in which wages from 1 ER were 20% of statewide aww, currently \$99), or 12 x the statewide aww, (currently \$6,000) raised to the higher \$100. in BPW.	20 weeks of emplmt. week in which wages were 20% of statewide aww, currently \$99.

# DISABILITY

Table 600.--Significant Provisions of Temporary Disability Insurance Laws (Continued)

Provisions	New York		Puerto Rico	Rhode Island
	Employed workers	Unemployed workers		
(1)	(2)	(3)	(4)	(5)
Benefit formula.	Completely different from UI.		Same as UI for agricultural and nonagricultural workers up to \$59 wba.	Differs from UI.
Benefit year.	No BY; max. benefit limited in terms of any 52 consec. weeks.		No BY; max. benefit limited in terms of any 52 consec. weeks.	Individual, beginning with valid claim for DI.
Base period.	No BP as used in UI. See below for period used for qualifying emplmt. and wba.		First 4 of last 5 completed CQs immediately preceding first day of disability.	52 calendar weeks ending with 2d week immediately preceding BY.
Qualifying wages or employment.	4 or more consec. weeks of covered emplmt. for 1 ER (or 25 days regular part-time emplmt.) prior to commencement of disability.	2 categories of unemployed workers: (1) earned qualifying wages for UI (Table 301) <u>1</u> / or (2) not eligible under (1) but earned \$13 in covered emplmt. in each of 20 weeks within 30 weeks preceding last day worked in covered emplmt.	Flat \$150 in BP	20 x min. hourly wage in each of 20 wks or \$4,800 in total BP wages.

# DISABILITY

Table 600.—Significant Provisions of Temporary  
Disability Insurance Laws (Continued)

Provisions	California	Hawaii		New Jersey	
		Employed workers	Unemployed workers	Employed workers	Unemployed workers
(1)	(2)	(3)	(4)	(5)	(6)
Weekly benefit amount.	\$50-\$266 based on schedule of HQW. For almost any amount of HQW, will be higher for DI than for UI. <sup>2/</sup>	\$14-\$256. For an aww of less than \$26, wba is the aww up to a max. of \$14. If aww is \$26 or more, wba is 55% of aww with a max. of 66-2/3 percent of aww.	Same as UI.	\$45-\$261 based on schedule of aww). Aww determined by dividing wages from 1 ER during base weeks in 8 weeks preceding disability by number of such base weeks. If less than average using all emplmt. during last 8 weeks, use earnings from all ERs.	\$45-\$261 (based on schedule of aww). Aww determined by dividing wages from 1 ER in all base weeks by number of base weeks. If not 20 base weeks with any 1 ER, average base weeks with all ERs.
Duration	6-52 weeks, \$300-\$13,832 computed as lesser of 52 x wba or the total of BPW. Duration separate from UI.	Uniform 26 weeks in BY.	Balance of weeks claimant would have been eligible for benefits in his UI benefit year but not more than 26 weeks.	8+ -26 weeks, \$360-\$6,786 computed as lesser of 26 x wba or 1/3 BPW. Limit applies to benefits in any 12 consec. month period. Duration separate from UI and from benefits as an unemployed disabled worker.	15-26 weeks, \$675-\$6,786 computed as 3/4 weeks, but not more than 26 x wba. Duration under UI and disability during unemployment limited to 150% of duration for either program separately.

# DISABILITY

**Table 600.--Significant Provisions of Temporary  
Disability Insurance Laws (Continued)**

Provisions	New York		Puerto Rico	Rhode Island
	Employed workers	Unemployed workers		
(1)	(2)	(3)	(4)	(5)
Weekly benefit amount.	\$20-\$170 on basis of one-half aww in last 8 weeks, or portion thereof, in covered emplmt. prior to commencement of disability. If average is less than \$20, weekly benefit is average wage.		Agricultural workers: \$7-\$50 based on annual earnings as UI. Non-agricultural workers: \$7-\$104. Up to \$59, same HQ and BPW as UI. For wba of \$60 and over, under schedule provided by law.	\$37-\$303 (60% of individual aww up to 75% of State's aww in preceding CY, plus the greater of \$10 or 6% of the individual's benefit rate for each dep. up to 5 deps).
Duration.	Uniform potential 26 weeks in any 52 consec. weeks or for any single period of disability, \$520 (or less if wba is less than \$20-\$4,420 Duration separate from UI.		Uniform potential 26 weeks in any 52 consec. weeks.	12-30 weeks \$444-\$9,090 computed as 3/5 credit weeks plus DA if any.



# DISABILITY

**Table 600.--Significant Provisions of Temporary  
Disability Insurance Laws (Continued)**

Provisions	California	Hawaii		New Jersey	
		Employed workers	Unemployed workers	Employed workers	Unemployed workers
(1)	(2)	(3)	(4)	(5)	(6)
Waiting period.	7 consec. disability days at beginning of each uninterrupted disability period See below. <sup>2/</sup>	7 consec. days of disability at beginning of each uninterrupted period of disability.		7 consec. days of disability at beginning of each uninterrupted period of disability. <sup>3/</sup> See below.	7 consec. days of disability or 1 week of unemployment in ben. yr. satisfies waiting-period requirement for both UI and DI during unemployment. <sup>3/</sup>
Uninterrupted period of disability.	Consec. disability periods due to same or related cause and separated by not more than 14 days.	Consec. periods of disability due to same or related cause and not separated by an interval of more than 2 weeks.		Consec. periods of disability due to same or related cause and separated by not more than 14 days if individual earned wages from his last ER during the 14-day period.	.....
Part weeks of disability	Benefits paid for each day of disability in excess of 7 in a spell at rate of 1/7 wba.	Daily benefit amount computed on basis of normal number of workdays per week.	Same as UI.	Benefits paid for each day of disability in excess of 7 in a spell at rate of 1/7 wba; payment for part week rounded to next higher dollar.	Payment for part weeks of disability combined with emplmt. paid according to UI formula for partial benefits. Full week of disability and unemployment paid at full wba from disability account.

# DISABILITY

Table 600.--Significant Provisions of Temporary  
Disability Insurance Laws (Continued)

Provisions	New York		Puerto Rico	Rhode Island
	Employed workers	Unemployed workers		
(1)	(2)	(3)	(4)	(5)
Waiting period.	7 consec. disability days at beginning of each uninterrupted disability period. See below.	If UI claimant, no other waiting period than that for UI; if not qualified for UI, 7 consec. days of disability at beginning of each uninterrupted disability period. See below.	7 consec. disability days at beginning of each uninterrupted disability period. No waiting period for agricultural workers who become disabled during continuous period of unemployment. <sup>2/</sup>	7 consec. disability days at beginning of BY. However, the waiting wk. may become compensable under certain conditions.
Uninterrupted period of disability	Consec. disability periods caused by the same or related injury or sickness, if separated by less than 3 months.		Consec. disability periods caused by same or related illness or injury, if separated by less than 90 days.	. . . . .
Part weeks of disability.	Benefits paid for each day of disability in excess of 7 in a spell. Daily benefit computed on basis of normal number of workdays per week.	Daily benefit computed as if normal workweek were Monday through Friday.	Benefits payable for each day of disability in excess of 7 consec. days computed as 1/7 wba rounded to higher dollar.	Benefits paid for part week of disability following waiting period or receipt of benefits at rate of 1/5 wba for each workday up to 4/5 wba rounded to next higher dollar.

<sup>1/</sup>Or averaged at least \$30 a week in 15 weeks in last 52-week period and in 40 weeks in last 104-week period.

<sup>2/</sup>No waiting period required for regular benefits for hospitalized claimant, Calif., P.R., or for individual unemployed and disabled for more than 21 days, or if the individual receives treatment in a surgical clinic that requires a stay of less than 24 hours, Calif..

<sup>3/</sup>Waiting week is compensable after benefits have been paid for 3 consecutive weeks.